

الْبَابُ الرَّابِعُ

مَنْعُ قَتْلِ السُّفَرَاءِ وَالزُّرَّاعِ وَالتُّجَّارِ وَغَيْرِ الْمُتَحَارِبِينَ

CHAPTER FOUR

THE UNLAWFULNESS OF KILLING  
DIPLOMATS, FARMERS, TRADERS AND  
NON-COMBATANTS

٤٠ / ١. عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ (فِي يَوْمِ فَتْحِ مَكَّةَ): مَنْ دَخَلَ دَارَ أَبِي سُفْيَانَ فَهُوَ آمِنٌ، وَمَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ أَغْلَقَ بَابَهُ فَهُوَ آمِنٌ. رَوَاهُ مُسْلِمٌ وَأَبُو دَاوُدَ وَابْنُ بَرَزٍ.

40/1. Abū Hurayra رَضِيَ اللَّهُ عَنْهُ related that Allah's Messenger ﷺ said (on conquering Mecca):

"Whoever enters Abū Sufyān's house is safe, and whoever lays down his weapon is safe, and whoever shuts his door is safe."<sup>1</sup>

Reported by Muslim, Abū Dāwūd and al-Bazzār.

٤١ / ٢. عَنْ نَعِيمِ بْنِ مَسْعُودٍ الْأَشْجَعِيِّ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ حِينَ قَرَأَ كِتَابَ مُسَيْلَمَةَ الْكَذَّابِ، قَالَ لِلرَّسُولَيْنِ: فَمَا تَقُولَانِ إِنِّي أَنْتُمَا؟ قَالَا: نَقُولُ كَمَا قَالَ. فَقَالَ رَسُولُ اللَّهِ ﷺ: وَاللَّهِ، لَوْ لَا أَنَّ الرُّسُلَ لَا تُقْتَلُ لَضَرَبْتُ أَعْنَاقَكُمَا.

رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَابْنُ بَرَزٍ. وَقَالَ الْحَاكِمُ: هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ مُسْلِمٍ.

41/2. Na'im b. Mas'ūd al-Ashja'i related:

"I heard Allah's Messenger ﷺ saying to the two envoys after he had read the letter from Musaylama the Liar: 'What do both of you

<sup>1</sup> Set forth by •Muslim in *al-Shaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Military Expeditions], Chapter: "The Conquest of Mecca," 3:1407 §1780. •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj wa al-imāra wa al-fay'* [The Book of Land Tax, Leadership and the Spoils Acquired without Fighting], chapter: "What has been Narrated about Mecca," 3:162 §3021. •al-Bazzār in *al-Musnad*, 4:122 §1292. •al-Dāraquṭnī in *al-Sunan*, 3:60 §233. •Abū 'Awāna in *al-Musnad*, 4:290 §6780. •Ibn Rahawayh in *al-Musnad*, 1:300 §278.

say (believe)?' They said: 'We say (believe) what he does.' He said: 'By Allah! Were it not for the fact that envoys are not to be killed, I would have struck your necks!'"<sup>1</sup>

Reported by Aḥmad, Abū Dāwūd and al-Ḥākim. Al-Ḥākim said: "This is an authentic tradition in conformity with the stipulation of Muslim."

٣/٤٢. وَفِي رِوَايَةِ عَبْدِ اللَّهِ ﷺ، فَقَالَ لَهُمَا رَسُولُ اللَّهِ ﷺ: أَتَشْهَدَانِ أَنِّي رَسُولُ اللَّهِ؟ قَالَا: نَشْهَدُ أَنَّ مُسْلِمَةَ رَسُولُ اللَّهِ. فَقَالَ: لَوْ كُنْتُ قَاتِلًا رَسُولًا لَصَرَبْتُ أَعْنَاقَكُمْ.

قَالَ: فَجَرَتْ سُنَّةٌ أَنْ لَا يُقْتَلَ الرَّسُولُ.

رَوَاهُ أَحْمَدُ وَالدَّارِمِيُّ وَأَبُو يَعْلَى.

42/3. 'Abd Allāh (b. Mas'ūd) related:

"Allah's Messenger ﷺ asked both envoys [‘Abd Allāh b. Nuwāḥa and Ibn Athāl] about Musaylama the Liar: 'Do you bear witness that I am Allah's Messenger?' They said: 'We bear witness that Musaylama is the Messenger of Allah!' The Messenger of Allah said: 'Were I to execute envoys, I would have executed you!'"

The transmitter said: "From that day forward, the rule was that no envoy was to be killed."<sup>2</sup>

Reported by Aḥmad, al-Dārimī and Abū Ya'la.

٤/٤٣. وَفِي رِوَايَةٍ عَنْهُ قَالَ: فَقَالَ النَّبِيُّ ﷺ: آمَنْتُ بِاللَّهِ وَرَسُولِهِ. لَوْ كُنْتُ قَاتِلًا رَسُولًا لَقَتَلْتُكُمْ. قَالَ عَبْدُ اللَّهِ: قَالَ: فَمَضَتْ السُّنَّةُ أَنَّ الرَّسُولَ لَا تُقْتَلُ.

<sup>1</sup> Set forth by •Aḥmad b. anbal in *al-Musnad*, 3:487 §16032. •Abū Dāwūd in *al-Sunan*, chapter: "On Envoys," 3:83 §2761. •al-Ḥākim in *al-Mustadrak al-ā al-Ṣaḥīḥayn*, 2:155 §2632 and 3:54 §4377.

<sup>2</sup> Set forth by •Aḥmad b. anbal in *al-Musnad*, 1:390 §3708 and 1:404 §3837. •al-Nasā'ī in *al-Sunan al-kubrā*, 5:205 §8675. •al-Dārimī in *al-Sunan*, 2:307 §2503. •Abū Ya'la in *al-Musnad*, 9:31 §5097.

رَوَاهُ أَحْمَدُ وَالطَّيَالِسِيُّ وَذَكَرَهُ ابْنُ الْقَيْمِ.

43/4. 'Abd Allāh b. Mas'ūd ۞ related:

"The Prophet ۞ said: 'I believe in Allah ۞ and His Messengers. Had it been permissible for me to slay envoys, I would have executed both of you [the two envoys of Musaylama the Liar (due to the denigration they had perpetrated)].'"<sup>1</sup> According to 'Abd Allāh b. Mas'ūd, from that day forward, the rule was that no envoy was to be killed.

Reported by Aḥmad and al-Ṭayālīsī, and cited by Ibn al-Qayyim.

٥ / ٤٤ . عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ ۞، قَالَ: كَانُوا لَا يَقْتُلُونَ تِجَارَ الْمُشْرِكِينَ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَالْبَيْهَقِيُّ.

44/5. Jābir b. 'Abd Allāh ۞ said:

"They [the Muslim soldiers] did not kill the merchants amongst the pagans."<sup>2</sup>

Reported by Ibn Abī Shayba and al-Bayhaqī.

٦ / ٤٥ . عَنْ زَيْدِ بْنِ وَهْبٍ قَالَ: أَتَانَا كِتَابُ عُمَرَ: لَا تَغْلُوا وَلَا تَغْدِرُوا، وَلَا تَقْتُلُوا

وَلَيْدًا، وَاتَّقُوا اللَّهَ فِي الْفَلَاحِينَ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَابْنُ آدَمَ الْقُرَشِيُّ.

45/6. Zayd b. Wahb related that 'Umar ۞ sent them [the Muslim forces] a letter in which he said:

"Do not take anything without right when distributing the spoils

<sup>1</sup> Set forth by •Aḥmad in *al-Musnad*, 1:396 §3761. •al-Ṭayālīsī in *al-Musnad*, 1:34 §251. Cited by •Ibn al-Qayyim in *Zād al-ma'ād*, 3:611.

<sup>2</sup> Set forth by •Ibn Abī Shayba in *al-Muṣannaḥ*, 6:484 §33129. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §17939. Cited by •Ibn Ādam al-Qurashī in *Kitāb al-Kharāj*, 1:52 §133.

of war, and do not commit any treachery or kill children. And fear Allah regarding farmers.”<sup>1</sup>

Reported by Ibn Abī Shayba and Ibn Adam al-Qurashī.

٧ / ٤٦. وَفِي رِوَايَةٍ عَنْهُ، أَنَّهُ قَالَ: اتَّقُوا اللَّهَ فِي الْفَلَاحِينَ، فَلَا تَقْتُلُوهُمْ إِلَّا أَنْ يَنْصَبُوا لَكُمْ الْحَرْبَ.

رَوَاهُ الْبَيْهَقِيُّ.

46/7. In one report from Zayd b. Wahb, ‘Umar رضي الله عنه said:

“Fear Allah regarding the farmers and do not kill them unless they wage war against you.”<sup>2</sup>

Reported by al-Bayhaqī.

٨ / ٤٧. عَنْ ابْنِ عَبَّاسٍ رضي الله عنه، أَنَّ النَّبِيَّ ﷺ كَانَ إِذَا بَعَثَ جُيُوشَهُ قَالَ: لَا تَقْتُلُوا أَصْحَابَ الصَّوَامِعِ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَأَبُو يَعْلَى وَالطَّحَاوِيُّ وَالدَّيْلَمِيُّ.

47/8. (‘Abd Allāh) b. ‘Abbās رضي الله عنه related:

“When the Prophet ﷺ sent his troops, he would enjoin: ‘Do not kill those (priests) who tend to the monasteries.’”<sup>3</sup>

Reported by Ibn Abī Shayba, Abū Ya‘lā, al-Ṭahāwī, and al-Daylamī.

٩ / ٤٨. وَفِي رِوَايَةٍ ثَابِتِ بْنِ الْحَجَّاجِ الْكِلَابِيِّ قَالَ: قَامَ أَبُو بَكْرٍ فِي النَّاسِ، فَحَمِدَ اللَّهَ وَأَثْنَى عَلَيْهِ، ثُمَّ قَالَ: أَلَا لَا يُقْتَلُ الرَّاهِبُ فِي الصَّوْمَعَةِ.

<sup>1</sup> Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33120. Cited by •Ibn Adam al-Qurashī in *Kitāb al-Kharāj*, 1:52 §132.

<sup>2</sup> Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §17938.

<sup>3</sup> Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 5:59 §2650. •al-Ṭahāwī in *Sharḥ ma‘ānī al-āthār*, 3:225. •al-Daylamī in *Musnad al-firdaws*, 5:45 §7410.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

48/9. According to Thābit b. al-Ḥajjāj al-Kilābī, Abū Bakr رضي الله عنه stood up among the people, praised and glorified Allah and said (to people):  
 “Beware! No [non-combatant] priest tending to his monastery should be killed.”<sup>1</sup>

Reported by Ibn Abī Shayba.

١٠/٤٩. وَفِي رِوَايَةِ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ أَبَا بَكْرٍ رضي الله عنه لَمَّا بَعَثَ الْجُنُودَ نَحْوَ الشَّامِ قَالَ: لَمَّا رَكِبُوا، مَشَى أَبُو بَكْرٍ مَعَ أَمْرَاءِ جُنُودِهِ يُودِّعُهُمْ حَتَّى بَلَغَ ثَنِيَّةَ الْوَدَاعِ، فَقَالُوا: يَا خَلِيفَةَ رَسُولِ اللَّهِ، أَتَمْنِي وَنَحْنُ رُكْبَانُ؟ فَقَالَ: إِنِّي أَخْتَسِبُ خُطَايَ هَذِهِ فِي سَبِيلِ اللَّهِ ثُمَّ جَعَلَ يُوصِيهِمْ. فَقَالَ: أَوْصِيكُمْ بِتَقْوَى اللَّهِ. اغْزُوا فِي سَبِيلِ اللَّهِ فَقَاتِلُوا مَنْ كَفَرَ بِاللَّهِ فَإِنَّ اللَّهَ نَاصِرُ دِينِهِ، وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا الشُّيُوخَ وَلَا النِّسَاءَ وَتَسْجِدُونَ أَقْوَامًا حَبَسُوا أَنْفُسَهُمْ فِي الصَّوَامِعِ فَدَعُوهُمْ وَمَا حَبَسُوا أَنْفُسَهُمْ لَهُ.  
 رَوَاهُ الْبَيْهَقِيُّ وَالطَّحَاوِيُّ وَابْنُ عَسَاكِرَ وَذَكَرَهُ الْهَنْدِيُّ.

49/10. Saʿīd b. al-Musayyib related:

“When Abū Bakr al-Ṣiddīq رضي الله عنه dispatched an army towards Syria, he came walking with the commanders of the army until he reached the mountains to bid them farewell. At that time, the commander said: ‘O successor of Allah’s Messenger! (Is it not against reverence for us that) you walk while we are riding?’ He said: ‘I count these steps of mine in the way of Allah.’ Then he instructed the army: ‘I enjoin you to fear Allah (in every matter), fight (against the oppressors) for the cause of Allah and strive face-to-face with the disbelievers. Indeed, Allah helps His *Dīn* [religion]. Do not kill any children or elderly people or women. You shall come upon a people who have secluded themselves in cloisters; you must leave them to engage in that for whose sake they

<sup>1</sup> Set forth by Ibn Abī Shayba in *al-Muṣannaḥ*, 6:483 §33127.

have secluded themselves.”<sup>1</sup>

Reported by al-Bayhaqī, al-Ṭaḥāwī, and Ibn ‘Asākir, and cited by al-Hindī.

١١/٥٠. وَفِي رِوَايَةِ صَالِحِ بْنِ كَيْسَانَ قَالَ: لَمَّا بَعَثَ أَبُو بَكْرٍ رضي الله عنه يَزِيدَ بْنَ أَبِي سُفْيَانَ إِلَى الشَّامِ فَقَالَ (لَهُ): وَلَا تَقْتُلُوا كَبِيرًا هَرِمًا وَلَا امْرَأَةً وَلَا وَلِيدًا وَلَا تُحْرِبُوا عُمْرَانَا وَلَا تَقْطَعُوا شَجَرَةً إِلَّا لِنَفْعٍ وَلَا تَعْقِرَنَّ بَهِيمَةً إِلَّا لِنَفْعٍ وَلَا تُحْرِقَنَّ نَخْلًا وَلَا تُغْرِقَنَّهُ وَلَا تَغْدِرْ وَلَا تَمْتَلْ وَلَا تَحْبِنَ وَلَا تَغْلُلْ.  
رَوَاهُ الْبَيْهَقِيُّ.

50/11. According to Ṣāliḥ b. Kaysān, when Abū Bakr al-Ṣiddīq رضي الله عنه dispatched Yazīd b. Abī Sufyān (and the Muslim troops to Syria), he addressed them:

“Do not kill an old, feeble man or a woman or a child. Do not damage any populated area. Do not cut down trees needlessly. Do not kill animals unless it is for a benefit [to feed others]. Do not burn down date-palm trees or destroy them. Do not commit any treachery. Do not mutilate (anyone). Do not behave cowardly. And do not take anything without right when distributing the spoils of war.”<sup>2</sup>

Reported by al-Bayhaqī.

١٢/٥١. وَفِي رِوَايَةٍ: قَالَ عَلِيُّ بْنُ أَبِي طَالِبٍ رضي الله عنه: لَا يُدْفَقُ عَلَى جَرِيحٍ، وَلَا يُقْتَلُ أَسِيرٌ، وَلَا يُتَّبَعُ مُدْبِرٌ.  
رَوَاهُ عَبْدُ الرَّزَّاقِ.

51/12. Alī b. Abī Ṭālib رضي الله عنه said:

<sup>1</sup> Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:85 §17904. •al-Ṭaḥāwī in *Sharḥ Mushkil al-āthār*, 3:144. •Ibn ‘Asākir in *Tārīkh Madīna Dimashq*, 2:75. Cited by •al-Hindī in *Kanz al-ummāl*, 4:203 §11408.

<sup>2</sup> Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:90 §17929.

"The injured person or prisoner should not be killed, nor should be chased those who flee."<sup>1</sup>

Reported by 'Abd al-Razzāq.

١٣/٥٢. وَفِي رِوَايَةٍ عَنْ جُوَيْرٍ قَالَ: أَخْبَرْتَنِي امْرَأَةً مِنْ بَنِي أَسَدٍ قَالَتْ: سَمِعْتُ عَمَّارًا بَعْدَ مَا فَرَغَ عَلِيٌّ مِنْ أَصْحَابِ الْجَمَلِ يُنَادِي: لَا تَقْتُلُوا مُقْبِلًا، وَلَا مُدْبِرًا، وَلَا تُدْفَفُوا عَلَى جَرِيحٍ، وَلَا تَدْخُلُوا دَارًا. مَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ أَغْلَقَ بَابَهُ فَهُوَ آمِنٌ.

رَوَاهُ عَبْدُ الرَّزَّاقِ.

52/13. Juwaybir related that a woman from the tribe of Banū Asad told him that she heard 'Ammār ؓ declare after 'Alī ؓ had finished the Battle of the Camel:

"Do not kill anyone coming up or going back; do not kill an injured person; and do not enter the house of someone who has laid down his arms, for he is considered safe. Similarly, the one who shuts his door is considered safe."<sup>2</sup>

Reported by 'Abd al-Razzāq.

• قَالَ الْإِمَامُ الْأَوْزَاعِيُّ: لَا يُقْتَلُ الْحُرَّاتُ إِذَا عَلِمَ أَنَّهُ لَيْسَ مِنَ الْمُقَاتِلَةِ.

Imam al-Awzā'ī said: "Farmers are not to be killed [during war] if it is known that they are not from the combatants."<sup>3</sup>

• قَالَ الْإِمَامُ ابْنُ الْقَدَّامَةِ الْمَقْدِسِيُّ: فَأَمَّا الْفَلَّاحُ الَّذِي لَا يُقَاتِلُ فَيَنْبَغِي أَلَّا يُقْتَلَ، لِمَا رَوِيَ عَنْ عُمَرَ بْنِ الْخَطَّابِ ؓ أَنَّهُ قَالَ: اتَّقُوا اللَّهَ فِي

<sup>1</sup> Set forth by •'Abd al-Razzāq in *al-Muṣannaf*, 10:123 §18590.

<sup>2</sup> Set forth by •'Abd al-Razzāq in *al-Muṣannaf*, 10:124 §18591.

<sup>3</sup> Cited by •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:165.

الْفَلَاحِينَ، الَّذِينَ لَا يَنْصِبُونَ لَكُمْ فِي الْحَرْبِ.

Ibn Qudāma al-Maqdisī said: "As for the farmer who is a non-combatant, he should not be killed, because it was narrated from 'Umar b. al-Khaṭṭāb رضي الله عنه that he said: 'Fear Allah regarding the farmers who do not wage war against you.'"<sup>1</sup>

• قَالَ الْعَلَّامَةُ ابْنُ الْقَيِّمِ: فَإِنَّ أَصْحَابَ النَّبِيِّ ﷺ لَمْ يَقْتُلُوهُمْ حِينَ فَتَحُوا الْبِلَادَ، وَلَئِنْهُمْ لَا يُقَاتِلُونَ، فَأَشْبَهُوا الشُّيُوخَ وَالرُّهْبَانَ.

Ibn al-Qayyim said: "Indeed, when the Companions of the Prophet ﷺ conquered the various lands, they did not kill them [farmers and merchants] because the latter did not fight [against them], and so in that sense they [the civilians] resembled the elderly and the religious leaders."<sup>2</sup>

• وَقَالَ الْعَلَّامَةُ ابْنُ الْقَيِّمِ: وَإِنَّ الْعَبْدَ مُحَقُّونَ الدِّمِّ فَأَشْبَهَ النِّسَاءَ وَالصَّبِيَّانَ.

Ibn al-Qayyim also said: "Like the women and children, the servants who work at home are also safe from bloodshed."<sup>3</sup>

<sup>1</sup> • Ibn Qudāma al-Maqdisī, *al-Mughnī*, 9:251.

<sup>2</sup> • Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:165.

<sup>3</sup> Ibid., 1:172.